

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON**

PAMELA CATHERINE BEDESKI CHING

Plaintiff,

vs.

THE BOEING COMPANY.

Defendant

CASE NO.: C14-1157RSL

FIRST AMENDED COMPLAINT FOR:

**1. VIOLATION OF THE AMERICANS
WITH DISABILITIES ACT; AND
2. VIOLATION OF THE
WASHINGTON LAW AGAINST
DISCRIMINATION**

JURY TRIAL REQUESTED

I. PARTIES

1.1 At all times mentioned herein, Plaintiff PAMELA CATHERINE BEDESKI CHING (“Plaintiff”) was a resident of Kirkland, Washington.

1.2 Plaintiff is informed and believes and based thereon alleges that, at all times mentioned herein, Defendant THE BOEING COMPANY (“Defendant”) was and is a corporation organized and existed under the laws of the State of Washington, and is doing business in King County Washington.

II. JURISDICTION AND VENUE

2.1 This court has original subject matter jurisdiction of this complaint pursuant to 28 U.S.C. Sections 1331. This action is authorized and instituted pursuant to the Americans with Disabilities Act, 42 U.S.C. Section 12101.

2.2 The Court has jurisdiction because Plaintiff's state law claims set forth in this complaint under 28 U.S.C. Section 1367 pursuant to its supplemental jurisdiction to hear state related claims. The state claims alleged herein arose from a common nucleus of operative facts, are related the federal claims such that they form part of the same case or controversy, and the actions would ordinarily be expected to be tried in one judicial proceeding.

2.3 Venue is appropriate in the Western District pursuant to 28 U.S.C. Section 1391, because all the facts alleged herein took place in the Western District and the Defendant resides in the Western District.

III. STATEMENT OF FACTS

3.1 Plaintiff was employed by Defendant as a procurement financial analyst. From September 2012 to July 2013, Defendant placed Plaintiff on medical leave of absence pursuant to Plaintiff's request. Prior to taking her leave of absence Plaintiff was performing all the essential functions of procurement financial analyst. Plaintiff requested medical leave because she was suffering from acute anxiety, panic attacks and neck pain and was unable to perform her essential job functions. The foregoing physical and mental impairments substantially limited Plaintiff's ability to perform work for Defendant. Plaintiff's physical and mental impairments constituted a "disability" as that term is used in the Americans with Disabilities Act. See, for example, Mustafa v. Clark County Sch. Dist., 157 F.3d 1169, (9th Cir. Nev. 1998) holding that a

1 Plaintiff suffering from depression, post-traumatic stress disorder, and panic attacks has
2 impairments substantially limit the Plaintiff in his major life activity of working.

3 3.2 Plaintiff's medical records from September 2012 to June 2013 reflect a diagnosis
4 of the above described physical and mental impairments. Aetna administered medical leaves of
5 absence for Defendant's employees. During her medical leave of absence Plaintiff visited her
6 doctor on a monthly basis. Plaintiff's doctor periodically sent updates on Plaintiff's medical
7 condition to Aetna stating her expected return to work date. The updates from Plaintiff's doctor
8 diagnosed Plaintiff as continuing to suffer the above described physical and mental impairments.

9 3.3 On June 20, 2013, Plaintiff's doctor sent Aetna a medical report stating that
10 Plaintiff's expected return to work date was Monday, July 29, 2013. The medical report, dated
11 June 20, 2013, also diagnosed Plaintiff as continuing to suffer from anxiety, panic attacks and
12 neck pain. Despite Aetna's receipt of the medical report, Defendant asserted that Plaintiff's return
13 to work date was Saturday, June 29, 2013.

14 3.4 On June 29, 2013, Defendant terminated Plaintiff's employment due to Plaintiff's
15 alleged failure to return to work. Defendant never called or emailed Plaintiff to determine why
16 she did not return to work on June 29, 2013, despite having access to Plaintiff's cell phone
17 number and email through Defendant's "Total Access" website.

18 3.5 Plaintiff was terminated within weeks of filing a claim for government benefits.
19 Moreover, Defendant deliberately avoided any actual contact with Plaintiff prior to her
20 termination in an effort to prevent her from returning to work.

21 3.6 Plaintiff only discovered she had been discharged by Defendant in mid July 2013
22 when she received a discharge questionnaire from the Washington State Employment Security
23 Department. Upon receiving the discharge questionnaire Plaintiff immediately contacted
24
25
26
27
28

1 Defendant's HR department, her former supervisor, and Aetna to correct the apparent
 2 miscommunication regarding her return to work date. Aetna, and Defendant's employees, Joanne
 3 Urtula and Jennifer Kranz, rebuffed Plaintiff and made no effort whatsoever to correct their
 4 mistake regarding Plaintiff's termination.
 5

6 3.7 With reasonable accommodation Plaintiff could have been able to perform the
 7 essential functions of her job as a procurement analyst. Under the circumstances described
 8 above, Defendant could have provided reasonable accommodation to Plaintiff by permitting her
 9 to complete her medical leave and allowing Plaintiff to return to work on July 29, 2013, the date
 10 state by Plaintiff's doctor as Plaintiff's return to work date. Plaintiff was able to perform all her
 11 essential job functions as a procurement analyst and ready, willing and able to work as of July,
 12 29, 2013. In October 2013, Plaintiff filed a complaint against Defendant with the EEOC for
 13 violation of the Americans with Disabilities Act. Plaintiff received a right to sue letter from the
 14 EEOC on June 17, 2014.
 15
 16

17 18 **IV. FIRST CAUSE OF ACTION**

19 Violation of Americans with Disabilities Act (42 U.S.C. Section 12101 et seq.)

20 4.1 The allegations of Paragraphs 1.1 through 3.7 above are re-alleged and
 21 incorporated herein by reference.
 22

23 4.2 Discrimination in employment on the basis of disability is prohibited by the
 24 Americans with Disabilities Act..The Americans with Disabilities Act requires that an Employer
 25 engage in individualized interactive process with an Employee to accommodate an employee
 26 who is on a medical leave absence.
 27

28 4.3 Plaintiff was disabled at the time of her termination.

1 5.4 By terminating Plaintiff without making an effort to reasonably accommodate
2 Plaintiff, Defendant unlawfully discriminated against Plaintiff in direct violation of RCW 49.60.
3 et seq.

4
5 5.5 Defendants unlawful discrimination directly and proximately caused wage loss,
6 economic and emotional harm and damages to Plaintiff in an amount to be proven at trial.

7 5.6 Plaintiff is entitled to recover all lost wages, economic and general damages
8 proximately caused by Defendant's unlawful discrimination in violation of WLAD, together with
9 actual costs of litigation, including reasonable attorneys' fees. Plaintiff is further entitled to
10 recover attorney fees for lost wages pursuant to RCW 49.48.030.
11

12 **WHEREFORE**, PLAINTIFF prays for judgment against Defendants as follows:

- 13 1. For general damage, for lost wages, for emotional distress and mental suffering,
14 humiliation, embarrassment, depression in an amount according to proof;
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16 2. For punitive damages for the conduct described herein.
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18 3. For incidental expenses and damages according to proof;
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20 4. For costs of suit herein incurred, including reasonable attorney's fees;
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22 5. For such other relief as the Court may deem proper and just.

23 Dated: December 4, 2014

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